



THE CITY OF SAN DIEGO
MANAGER'S REPORT

DATE ISSUED: January 21, 2004 REPORT NO. 04-008

ATTENTION: Honorable Mayor and City Council
Docket of January 27, 2004

SUBJECT: **ELICHONDOS – PLANNED DEVELOPMENT PERMIT &
NEIGHBORHOOD USE PERMIT, PROJECT NO. 5076.** Council
District Three, Process 4

REFERENCE: P-03-046 (revised) recommending denial of the applicants proposed project
and approval of the staff alternative.

OWNER/
APPLICANT: Ramon and Marina Elizando

SUMMARY

Issue - 1) Should the City Council approve or deny an appeal of the Planning Commission decision to approve a Planned Development Permit and Neighborhood Use Permit allowing the operation of two separate businesses (not exceeding 2,500 square-feet each) and a deviation in the required residential density for a site located at 3546 Euclid Avenue within the City Heights Community?

City Manager's Recommendation – Staff recommends that the City Council deny the appeal of the Planning Commission action and uphold the approval of the Elichondo's project, as modified, by taking the following actions:

1. DENY the Appeal and uphold the Planning Commission decision to approve Planned Development Permit No. 8555 (Attachment No. 5); and
2. DENY the Appeal and uphold the Planning Commission decision to approve Neighborhood Use Permit No. 26044 (Attachment No. 5).

Planning Commission Recommendation – On October 16, 2003, the Planning Commission voted 7-0 to approve a modified project including a deviation from the use regulations that would permit the operation of two separate commercial retail businesses not exceeding 2,500 square-feet (for a total of 5,000 square-feet); and a Neighborhood Use Permit for the sale of consumer goods as identified in the Central Urbanized Planned District for the CU-1-2 Zone. The Planning Commission motion also approved a deviation permitting a reduction in the required residential density for this site with the stipulation that any additional redevelopment of the premises would be solely for residential use. The Planning Commission recommendation is discussed in greater detail further within this report.

Community Planning Group Recommendation - On August 4, 2003, the City Heights Community Planning Committee voted 8 to 3 with 2 abstentions, to deny the project. The recommendation to deny the project was based on the proposed reduction of residential units and the increase in the number of commercial businesses proposed on the site. On October 6, 2003, a motion to rehear the matter at the City Heights Area Planning Committee failed to carry a majority vote therefore, no additional recommendations have been provided (Attachment No. 9).

Environmental Review - An Environmental Initial Study was conducted and determined the proposed project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 - Existing Facilities.

Fiscal Impact - All of the costs associated with processing this application are paid by the applicant.

Code Enforcement Impact - The property is the subject of two open Neighborhood Code Compliance violations (NCCD Case Nos. 92784 and 92805) resulting from the previous illegal use of the site and interior tenant improvements to the existing structure. The non-permitted activity on the property has ceased and approval of this discretionary permit and the subsequent building permits would resolve all of the current code violation issues

Housing Impact Statement - The proposed 0.43-acre site is designated for mixed-use development, with an emphasis on low-medium density residential at 29 dwelling units to the acre. Under the existing land use designation, a 12-unit mixed-use project could be developed. Higher residential densities may be achieved through a mixed-use density bonus of up to 18 dwelling units. The existing 2-bedroom unit will remain on site, with no additional housing units proposed as part of this project.

BACKGROUND

The project is located at 3546 Euclid Avenue within the City Heights Neighborhood Element of the Mid-City Communities Planning Area (Attachment No. 2). The Community Plan designates the 0.43-acre site for commercial and mixed-use land use. The property is zoned CU-1-2 and subject to the development regulations of the Central Urbanized Planned District Ordinance.

The project site is surrounded by a variety of land uses including older, well maintained single-family homes to the east and a mix of single and multi-family development west of the site. The north and south corridor along Euclid Avenue includes commercial and light industrial uses. The property has been previously developed with a 7,280 square-foot structure that was used as part of a heavy equipment rental and storage yard in conjunction with the adjacent parcel. The structure includes a second-story residential dwelling unit. The commercial portion of the structure has been vacant for a number of years and both the building and the site were in a deteriorated condition. The owner has attempted to improve the visual quality of the property by renovating the facade and cleaning the property by removing weeds and debris from the site.

DISCUSSION

The application is requesting a Planned Development Permit to allow deviations from the underlying CU-1-2 Zone development regulations and use table, and a Neighborhood Use Permit to allow the retail sale of specified consumer goods in accordance with the Central Urbanized Planned District Ordinance. The Planned Development Permit is required to allow a commercial retail business greater than 2,500 square-feet, and also to reduce the amount of residential use on the property to less than the required fifty-percent as stated in the Planned District Ordinance. In addition to the commercial retail use, the applicant is requesting an 880 square-foot restaurant as a part of the project.

Community Plan Analysis

The Mid-City Communities Plan designates the proposed project site for mixed-use development that accommodates a combination of low-medium density residential and low intensity commercial uses (Attachment 1). The proposed project implements general recommendations for mixed-use development found in the Plan including a revitalization strategy for streetscape improvements found in the Euclid Avenue Revitalization Action Program. The project includes design elements that would emphasize, maintain and strengthen the pedestrian orientation in commercial areas through the provision of public improvements and landscaping, specifically along Euclid Avenue. The project also proposes on-site and perimeter landscaping and decorative fencing that would enhance the overall visual quality of the existing site and the surrounding area. The proposed project would implement plan recommendations addressing improvements to traffic circulation by reducing the number of existing curb cuts on Euclid Avenue and revising the current parking layout to relocate existing spaces that back out onto the street.

Planned Development Permit Deviations

City staff has determined that the requested deviation to operate a single commercial business on the property exceeding the maximum 2,500 square-feet prescribed by the code can be supported, and the appropriate findings can be made. Staff based this determination on the fact that the 7,280 square-foot building is an existing previously conforming structure, and recognized the fact that any development proposal for this site, that did not include demolition of the existing structure, would require a discretionary permit because of the CU-1-2 Zoning regulations. Staff also considered the size of the 0.43- acre property in the determination to support the deviation

and concluded that the site was large enough to accommodate the size of the business being proposed. The project complies with all of the physical development regulations of the CU-1-2 Zone in terms of parking, setbacks and coverage, therefore, the size of the structure is compatible with the underlying zone.

Staff also considered the deviation to reduce the residential requirement of the project below the 50% gross floor area as required by the zone. Staff considered the previous use of the building and the construction type of the structure and determined that the cost of retrofitting the existing structure in order to provide additional second story dwelling units would be significant. Additionally, staff considered the option of converting some of the ground floor area of the existing structure into residential units and concluded that this design would also be expensive and would not be consistent with the intent of the Planned District to have a commercial/residential mixed-use development providing an attractive design consistent with the existing commercial character. Ground floor units would likely interfere with the commercial use of the property and may ultimately detract from the overall aesthetics of the design.

Neighborhood Development Permit

Staff also reviewed the request for a Neighborhood Use Permit to allow for the sale of consumer goods as prescribed in the Central Urbanized Planned District Ordinance and determined it could be supported and that the appropriate findings could be made. Staff considered the type of commercial sales anticipated on the site and believes that the type of retail goods proposed would be consistent with the intent of the zone.

As previously noted, the applicant is requesting an attached 880 square-foot restaurant use in conjunction with the retail sales element of the project fronting Euclid Avenue. Staff has reviewed the proposal for the restaurant use as a separate commercial venture on the property and determined that the use was not consistent with the purpose and intent of the Planned District or the CU-1-2 Zone. Staff believes that the addition of the restaurant significantly increases the commercial intensity on the site to a level not anticipated by the Central Urbanized Planned District and further exacerbates the issue of the non-residential use exceeding the maximum 2,500 square-feet of gross floor area. As indicated, staff would support the 880 square-feet as a part of the commercial retail element because the retail sales use of the floor area would be less intensive and more consistent with the single business intent of the Planned District. Therefore, staff did not support the restaurant use included as a part of the applicant's proposal.

CONTINUANCE:

The Elichondos item, Project No. 5076, was before the Planning Commission for consideration on September 11, 2003. Upon hearing the staff report and public testimony regarding the project issues and the various recommendations from City staff, the applicant and members of the City Heights community, the Commission unanimously approved a motion to continue the item to the October 16, 2003 docket. The overriding project issue was the undefined nature of the types of consumer goods and retail products or commercial services that would be available at the Elichondos store.

The Commission directed the applicant, the City Heights Area Planning Committee and other interested parties, to work together in order to clearly define the type of business or, if appropriate, multiple businesses that would be acceptable to the community. The Commission also requested a declaration from the applicant, with input from the community, as to the exact nature or niche market the business or businesses would provide relative to the sales and services intended for the site.

The parties initially met on Wednesday, September 24, 2003, at the office of Fred James, the attorney representing the applicants, to discuss the proposal of having multiple businesses on the site. A subsequent meeting was held at the Elichondos project site on Saturday, October 4, 2003, to further the dialogue regarding the use of the property. On October 6, 2003, a motion to rehear the matter at the City Heights Area Planning Committee failed to carry a majority vote therefore, the issue was not discussed in that public forum. As of the date this report was issued, little progress has been made by the two sides to determine what additional businesses would be included or acceptable to the community as part of the development.

The applicant has indicated that they would like to operate one store selling general merchandise and household items and open an 880 square-foot Mexican restaurant below the existing dwelling unit. The applicant proposes to sublease the remaining area (approximately 1,500 square-feet) within the structure to operate one additional business that would be a use permitted by right within the CU-1-2 Zone.

Opposition to this proposal contends that multiple businesses should not be permitted to operate on the site and believes that any additional commercial use of the site should be in conjunction with additional residential use over and above the existing dwelling unit. Members of the community opposed to this development maintain that the project does not comply with the development regulations of the Planned District Ordinance, nor implement the goals and recommendations of the Euclid Avenue Revitalization Action Program (RAP).

PLANNING COMMISSION DECISION

The Elichondo matter was reheard by the Planning Commission on October 16, 2003. Upon hearing public testimony and reviewing the project materials, the Commission crafted and unanimously approved a motion that provided a compromise between the applicant's request and the opposing issues as well as an alternative to the staff recommendation.

The Commission determined that two small commercial businesses that complied with the maximum 2,500 square-foot area established by the Central Urbanized Planned District Ordinance should be allowed to operate on the site. The Planning Commission also approved the request to maintain the existing residential unit on the property and not require the additional density prescribed by the plan. However, the Planning Commission conditioned this approval by requiring that any further development of the site be limited to residential development. The Planning Commission also approved the Neighborhood Use Permit to allow for the sale of consumer goods listed within the Retail Sales Section of the Ordinance with the condition that a restaurant was not permitted on the site.

The Planning Commission decision to approve the modified project was based on the size of the lot and the previously conforming nature of the existing building. The Commission noted that as many as four commercial businesses could potentially operate on the site if the property were to be subdivided. The Commission also indicated that the project would provide certain benefits to the community with the implementation of the public improvements, landscaping and façade renovations. The Planning Commission felt that the approved project alternative addressed the purpose and intent of the Central Urbanized Planned District and the goals and recommendations of the Euclid Avenue Revitalization Action Program.

APPEAL DISCUSSION

The Planning Commission decision to approve a modified project alternative was appealed by the Euclid Avenue Revitalization Action Program (RAP) Committee on October 30, 2003 (Attachment No. 8). The appeal states that the Planning Commission decision was made based on factual errors, that the findings for the decision cannot be supported and that the decision will have citywide significance. The appeal states that the decision to approve a modified project allowing deviations to the underlying development regulations is in conflict with the purpose and intent of the CU-1-2 Zone and the Central Urbanized Planned District Ordinance. The appeal further states that the decision to allow deviations to the use of the premises with a Planned Development Permit is a misuse of the intent of the discretionary permit. The appellants contend that the underlying zone is primarily intended for residential use and allows for a small measure of commercial uses along the Euclid Avenue corridor.

Staff disagrees with the grounds of the appeal and support the project alternative approved by the Planning Commission. Staff believes that the modified project alternative is a fair and reasonable compromise to the various issues surrounding the project. Staff believes that the purpose and intent of the CU-1-2 Zone, the Planned Development Permit process and the Euclid Avenue RAP would be implemented with the proposed development of the site. The project would improve the appearance of the property through significant upgrades to the façade and landscape and provide needed streetscape improvements including curb, gutters, sidewalks and lighting where currently none exist. Staff believes that the intent of the Central Urbanized Planned District and the underlying CU-1-2 Zone does not preclude predominately commercial development with a mixed-use project, particularly for properties on which previously conforming commercial structures exist as is the case with the Elichondos project. Staff believes that the Central Urbanized Planned District Ordinance reasonably anticipated projects that could not conform to the strict application of the development regulations and establishes the Planned Development Permit as the appropriate discretionary process to seek alternative designs.

ALTERNATIVES

1. Deny the Appeal and Approve Planned Development Permit No 8555 and Neighborhood Use Permit with modifications; or
2. Approve the Appeal and Deny Planned Development Permit No 8555 and Neighborhood Use Permit, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,

Tina P. Christiansen, A.I.A.
Development Services Director

Approved: P. Lamont Ewell
Assistant City Manager

CHRISTIANSEN/JPH

Note: The attachments are not available in electronic format. A copy is available for review in the Office of the City Clerk.

Attachments:

1. Community Plan Land Use Map
2. Project Location Map
3. Project Data Sheet
4. Project Site Plan & Building Elevations
5. Draft Permit with Conditions
6. Draft Resolution with Findings (Supporting Recommendation)
7. Ownership Disclosure Statement
8. Copy of Appeal
9. Community Planning Group Recommendation